

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 73068

Jackson A. Foster
Linda A. Foster

1309 North Point Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on May 11, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1D, 428, failure to cease operation of a junk yard, failure to cease service garage activities on residential property zoned DR 5.5 known as 1309 North Point Road, 21222.

On April 11, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jaffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$20,000.00 (twenty thousand dollars).

The following persons appeared for the Hearing and testified: Jackson and Linda Foster, Respondents, Albert Villani, neighbor and, Jeffrey Radcliffe, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on March 31, 2009 for removal of junk yard, remove abandoned/dismantled vehicle, no service garage work permitted. A Correction Notice was issued on November 9, 2009 to cease service garage activities, "no body work can be done at residence." This Citation was issued on April 11, 2010.

B. Inspector Jeff Radcliffe testified that the County received complaints that Respondents were working on cars at this residential property, including sanding and painting of vehicles. The work was being done mostly on weekends out of the garage. Multiple inspections were made. On April 11, Inspector Radcliffe observed Respondent Jackson Foster in the garage working on cars, with the door open. The garage has a big vent in the rear apparently for sanding and painting activities. There is a portable engine hoist. Photographs in the file show the engine hoist in the garage. Photographs show used car parts piled in the yard. Photographs show various cars in the driveway and in the garage on different days, including cars in disrepair and a black sedan that appears to have just been sanded for painting.

C. Albert Villani, a next door neighbor, testified that Respondent keeps doing work on cars and that the powder from his sanding has sprayed powder all over his house. He cannot keep the windows open. He has tried to clean the powder off his house with a power washer and it wouldn't come off, he is going to have to hire a professional to clean it.

D. Respondent Jackson Foster testified that he helps people out from time to time but stated that he has not done sanding or painting since December. He stated that he will stop doing car repairs.

E. Automotive service garages are not permitted in residential zones; a residential garage can only be used for the storage of private motor vehicles and cannot be used to repair or equip vehicles. BCZR Section 101.1, Section 1B01.1. The evidence clearly shows that Respondent has improperly been doing extensive automotive service garage work at his home, including engine repair, body work, and sanding and painting. Because compliance is the goal of code enforcement, the civil

penalty will be rescinded if Respondent keeps his commitment and ceases all service garage work. If the violations recur, the civil penalty will be imposed, and Respondents will be subject to immediate Citation with possible additional civil penalties, pursuant to departmental policy.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$1,000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violations are corrected, with no improper service garage activities being conducted at this residential property, including no automotive repairs, body work, or sanding or painting of cars, between the date of this Order and October 1, 2010. If the violations recur during this period, the full civil penalty will be imposed, AND Respondents will be subject to immediate Citation for the additional violations.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 14th day of May 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.